

4735.4 REV1 ASSAULT 10/22/97  
REVISION 1 10/22/97  
OPI: OM - Internal Control Staff

## **REPORTING ASSAULT, THREATS, INTIMIDATION, OR INTERFERENCE**

CHANGE TRANSMITTAL SHEET REVISION 1 10/22/97

### **I. BACKGROUND**

It is the Agency's objective to maintain a professional relationship between inspection and industry personnel, and to resolve differences in a business-like and equitable manner at the lowest level possible. FSIS expects employees to carry out official duties in a manner that upholds high standards of honesty, integrity, impartiality, and conduct. FSIS intends to protect employees from unwarranted interference while performing official duties.

### **II. CHANGES**

A. The focus of this Directive is the FSIS employee who has regular contact with the regulated industries, as part of their official duties. Employees have expressed concern that, on occasion, they believe they are being intimidated or interfered with in carrying out regulatory duties. Employees also believe that when these concerns have been reported to supervisor, the employees sometime hear nothing more about the matter. In the more serious cases of actual assault or threats, there was no clear guidance on how to respond. For these matters, the Agency lacked a central tracking system, from which it could monitor items, such as responsiveness, timeliness, trends, and frequency. This Directive addresses these concerns by:

1. Establishing a process for employees and supervisors to follow in reporting and attempting resolution.

2. Introducing a simple form to record the incident and resolution efforts.

3. Clarifying responsibilities, with the overall responsibility falling to the District Manager to assure these matters are being adequately dealt with.

4. Requiring District Managers to forward a copy of Form 4735-4 to the Internal Control Staff.

5. Providing a question and answer section.

B. Employees who experience assaults, threats, intimidation, or interference, not from regulated industry personnel, should report such actions to their supervisor. Of course, removing oneself from harm's way is paramount; as well as seeking medical treatment and the assistance of law enforcement or security personnel, as appropriate.

### III. CANCELLATION

This transmittal is canceled when contents are filed. For recordkeeping purposes, users may either retain or destroy this transmittal.

Alberta C. Frost  
Deputy Administrator  
Office of Management

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## REPORTING ASSAULT, THREATS, INTIMIDATION, OR INTERFERENCE

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## REPORTING ASSAULT, THREATS, INTIMIDATION, OR INTERFERENCE

### I. PURPOSE

This directive outlines responsibilities for reporting incidents of assault, threats of assault, intimidation, or interference by regulated industry personnel against FSIS employees, during or as a result of their official duties.

### II. CANCELLATION

This directive cancels FSQS Directive 4735.4, dated 8/19/80; and MPI Directive 922.7, dated 3/4/74.

### III. REASON FOR REISSUANCE

This directive is completely revised to:

A. Update Agency policies and procedures for reporting incidents.

B. Emphasize the need for and the importance of documenting and reporting various types of incidents.

1. Employees who are *physically assaulted* or threatened with physical assault should follow instructions in Subparagraph XI. A.

2. Employees who are not physically assaulted or threatened with physical assault should follow instructions in Subparagraph XII. A.

C. Increase the supervisory responsibilities for resolving incidents quickly and in a fair manner.

D. Introduce the use of FSIS Form 4735-4 (Attachment 1).

E. Include questions and answers to help employees identify situations that may cause interference with official duties (Attachment 2).

#### IV. REFERENCES

FSIS Directive 4735.3, Employee Responsibilities and Conduct  
FSIS Directive 4735.7, Industry Accusations Against Inspection Personnel

FSIS Directive 4771.1, Administrative Grievance System

The Collective Bargaining Agreements

7 CFR Part 7, The Egg Products Inspection Act

7 CFR Part 59, Inspection of Egg and Egg Products

9 CFR Chapter III, Subchapter A, Mandatory Meat Inspection  
(Parts 301-335)

9 CFR Chapter III, Subchapter C, Mandatory Poultry Products  
Inspection (Part 381)

18 U.S.C. 111, Assaulting, Resisting, or Impeding Certain  
Officers

or Employees

18 U.S.C. 1114, Protection of Officers and Employees of the  
United States

21 U.S.C. 461, Offenses and Punishment--Violations; Liability of  
Agents, Employees, and Persons

21 U.S.C. 675, Assaulting, Resisting, or Impeding Certain  
Persons;

Protection of Such Persons

#### V. FORMS AND ABBREVIATIONS

The following will appear in their shortened form in this  
directive:

CFR	Code of Federal Regulations
CS	Circuit Supervisor
FO	Field Operations
ICS	Internal Control Staff
OIG	Office of Inspector General

FSIS Form 4735-4, Reporting Form for Assault, Threats of  
Assault Intimidation, or Interference

#### VI. POLICY

It is FSIS policy to:

A. Protect employees from assaults, threats of assault, and other forms of intimidation, or interference relating to the performance of their official duties. FSIS uses appropriate criminal or administrative remedies of applicable laws and regulations to ensure an environment in which Agency employees are able to carry out their regulatory responsibilities without fear or intimidation.

B. Review or conduct an inquiry of all incidents reported under the provisions of this directive.

1. Such acts may lead to the:

a. Temporary suspension of inspection following procedures in 9 CFR 305.5(b) or 9 CFR 381.29(e).

b. Suspension or withdrawal of service following procedures in 7 CFR 59.160(f)(1)(iv).

2. Cases of assault or threats of assault against any FSIS employee may be prosecuted under the provisions of U.S. Code (i.e., 18 U.S.C. 111, 18 U.S.C. 1114, 21 U.S.C. 675, or 21 U.S.C. 461(c)).

C. Assure that reviews and inquiries of incidents are fair and objective.

D. Prevent or resolve incidents promptly by providing employees and supervisors with instructions and training for resolving such incidents.

## VII. COVERAGE

This directive covers all employees who experience assault, threats, intimidation, or interference as a result of the performance of official duties by:

A. The Regulated Industry. Follow procedures in Paragraphs VIII. through XIV.

B. Other than the Regulated Industry. Report these instances to the supervisor(s). An employee's safety and health are of the utmost concern when incidents involve assaults or threats of bodily harm. In addition, to immediately notifying supervisor, employees should:

1. Remove themselves from harm's way.
2. Notify law enforcement or security personnel, if appropriate.
3. Obtain necessary medical treatment.

#### VIII. DEFINITIONS

A. **Affected Employee.** Any FSIS employee subjected to intentional, job related incidents, by personnel in the regulated industries that interferes with the performance of official duties.

B. **Assault or Threat of Assault.** Any actions that result in bodily harm or perceived as a willful attempt or threat to inflict bodily harm.

C. **Bribery.** An act or practice of giving or promising money, goods, service, favors, or anything of value, to a person in a position of trust to influence their judgment or conduct.

D. **Harassment.** An act or behavior to torment, bother, or make anxious. Harassment includes offensive remarks and creating a hostile environment.

E. **Immediate Supervisor.** The individual to whom an employee reports to or receives direction from.

F. **Interference.** An act or behavior to hamper, hinder, block, or impede the actions or activities of another person. Interference includes non-threatening actions intended to prevent or adversely affect the performance of official duties.

G. **Intimidation.** An act or behavior to wield power or influence the outcome of a situation. Such actions may leave a person feeling vulnerable or in fear of consequences.

H. **Retaliation.** An activity perceived as an action to get even or to control a particular situation or business relationship.

#### IX. BRIBERY OR ATTEMPTED BRIBERY

A. When an industry employee or representative's action reflects bribery or attempted bribery (i.e., to suggest, imply, or offer a bribe) in the form of money, goods, services, favor, or anything of value, the employee must immediately telephone the appropriate USDA OIG Regional Office. Attachment 3 lists the

addresses, telephone numbers, and territories of OIG offices.

B. Any employee who believes that another employee solicited, accepted, or was offered a bribe must report the incident directly to OIG. (See Attachment 3.)

## X. DOCUMENTATION OF INCIDENTS

It is understood that problems may develop between plant officials and inspection personnel. To address this situation, the Agency strives to maintain a professional relationship between inspection and industry personnel at the worksite by resolving differences in a business-like and equitable manner. An improved working relationship provides more time for performing official duties. Occasionally, employees may find themselves in a confrontational situation with establishment employees, supervisors, or owners. Confrontations may range from simple disagreements to violent attempts to interfere with an employee's performance of official duties. Complete and accurate documentation is required to facilitate timely and appropriate resolutions, and to allow for the accurate tracking of incidents. Incidents may occur while performing official duties or because of official duties. (Attachment 2 contains questions and answers to address disruptive situations and helps inplant employees respond appropriately to incidents.)

### A. Reportable Incidents. Incidents may include:

1. All job-related incidents of assault, threats of assault, or other forms of intimidation or interference to an employee or family member.
2. Verbal attacks, property damage, or other actions that may be interpreted as an attempt to intimidate or interfere with an employee's performance of official duties. Employees should also report subtle acts of interference that do not involve threats of force.

B. Suspension of Service. Any action to prevent an employee from performing official duties may result in the suspension or withdrawal of inspection services and criminal prosecution. Provisions in the CFR and the U.S. Code specify penalties for offenses against employees or their family members. Several regulations reference the suspension of regulatory services in egg products, poultry, and red meat operations. The Egg Products Inspection Act (7 CFR, Part 7), the Poultry Products Inspection Act (9 CFR, Part 381), and the Federal Meat Inspection



Act (9 CFR, Part 335) are key Acts/Regulations applicable to this directive.

## **XI. PHYSICAL ASSAULT OR THREAT OF PHYSICAL ASSAULT**

### **A. Affected Employee Responsibilities.**

1. Withdraws from possible or further harm, immediately.
2. Notifies the immediate supervisor as soon as possible and discusses the incident (if the immediate supervisor is not available, contacts the next higher official).
3. Obtains medical treatment for any injuries, as appropriate.
4. Contacts local law enforcement officials or plant security.
5. Completes Section A of FSIS Form 4735-4 (see Attachment 1):
  - a. Sends original to immediate supervisor within 2 workdays.
  - b. Sends carbon or "notification" copy directly to district manager.
  - c. Retains copy for personal records.

### **B. Immediate Supervisor Responsibilities. On receipt of employee's notification:**

1. Determines the seriousness of the incident. If an employee's safety is involved, removes employee from premises and secures advice from higher levels on changing the affected employee's current duty assignment until the matter is resolved.
2. Assures that the employee has obtained medical attention, if necessary.
3. Notifies plant security, as appropriate, and advises the employee of his or her right to contact law enforcement officials.

4. Secures enough information to decide if plant inspection is to be suspended. If appropriate, suspends inspection.

5. Advises the district manager of the incident immediately. Notifies intervening supervisory level(s).

6. Obtains the names of those involved and the names of witnesses who observed the incident. Documents as much information about the incident as possible, including dates, times, locations(s), pertinent background information, and circumstances causing the incident. Secures available documents from establishment. Documents history and potential adverse affects of the incident.

7. Contacts establishment to assure or initiate resolution and respond to establishment concerns.

8. Completes FSIS Form 4735-4, Section B, within 7 workdays. Immediately forwards, through supervisory channels, to the district manager.

C. District Manager Responsibilities. On receipt of information on an incident:

1. Telephones the appropriate USDA OIG Regional Office, immediately. Attachment 3 lists the addresses, telephone numbers, and territories of OIG offices. Follows OIG instructions, if any.

2. Assures that the incident receives proper review. Discusses case documentation and resolution of incident with the immediate supervisor of the affected employee.

3. Assures that the employee received appropriate medical attention, contacted the appropriate law enforcement officials, and was adequately supervised/directed within the purview of the reported incident.

4. Reviews the copy of FSIS Form 4735-4 for completeness, adequacy, and appropriateness of actions taken. Includes additional information, if any.

5. Initiates and maintains case files.

6. Provides the employee and the immediate supervisor with a photocopy of the completed FSIS Form 4735-4.

7. Forwards photocopy of the completed FSIS Form 4735-4 to ICS. ICS monitors and tracks each case for resolution and timeliness.

## **XII. NON-PHYSICAL THREATS, INTERFERENCE, OR INTIMIDATION**

Incidents may involve non-physical acts intended to intimidate, interfere, or harass an employee during or as a result of the performance of his or her official duties, and include industry retaliation.

### **A. Affected Employee Responsibilities.**

1. Immediately notifies the immediate supervisor. Discusses whether the effectiveness of the program is impaired and obtains additional instructions.

2. Completes Section A of FSIS Form 4735-4, within 3 workdays:

a. Forwards original of FSIS Form 4735-4 to the immediate supervisor.

b. Sends carbon or "notification" copy to the appropriate district manager.

c. Retains copy for personal records.

### **B. Immediate Supervisor Responsibilities.**

1. Discusses the incident with the employee.

2. Determines whether employee remains at or leaves the establishment. Includes employee safety issues in the discussion.

3. Determines if and when CS is advised.

4. Attempts to resolve incident if employee was unable to do so.

5. Contacts establishment to assure or initiate incident resolution and respond to establishment concerns.

6. Completes Section B of FSIS Form 4735-4 within 7 workdays. Forwards, through supervisory channels, to the appropriate district manager.

**C. District Manager Responsibilities.** On receiving notification of the incident:

1. Ensures that the incident is properly reviewed. Documents incident information and ensures that appropriate action is taken to resolve the matter.

2. Reviews the FSIS Form 4735-4 for completeness, adequacy, and appropriateness of actions taken. Includes additional information, if any.

3. Initiates and maintains case file.

4. Provides a photocopy of the completed FSIS Form 4735-4 to the employee and the immediate supervisor.

5. Forwards photocopy of the completed FSIS Form 4735-4 to ICS. ICS monitors and tracks each case for resolution and timeliness.

### **XIII. EMPLOYEE APPEAL RIGHTS**

A. If an employee believes the procedures in this directive are not being followed or wishes to otherwise contest management actions, the employee may file a grievance as follows:

1. Bargaining Unit Employees, see Section XXXII of the Basic Agreement.

2. Non-Bargaining Unit Employees, see FSIS Directive 4771.1.

B. The employee may also file a discrimination complaint.

Alberta C. Frost  
Deputy Administrator  
Office of Management

ATTACHMENT 1

### **FSIS FORM 4735-4, REPORTING FORM FOR ASSAULT, THREATS OF ASSAULT, INTIMIDATION, OR INTERFERENCE**

(Refer to printed copy for Attachment 1.)

ATTACHMENT 2

## QUESTIONS AND ANSWERS

This attachment provides questions (Q) and answers (A) to situations and helps inplant employees recognize and respond to disruptive action that undermines regulatory responsibilities of the Agency.

### General Principles

Agency policy and conduct standards are in FSIS Directive 4735.3.

FSIS employees shall carry out inspection duties in a manner that upholds high standards of honesty, integrity, impartiality, and conduct. Inspection personnel represent the U.S. Department of Agriculture as regulatory officials. You are responsible for carrying out FSIS's mission to protect the public interest and to enforce meat, poultry, and egg products law and regulations.

Your authority may be challenged at times. Challenges are appropriate when made within the provisions of law and regulation. However, if challenges involve actions designed to harm you and/or family members, consider the action criminal in nature. Immediately report all such actions to your supervisor.

The more common challenges are the subtle acts that may be designed to interfere with your official duties. Some challenges may include false allegations about your character or behavior. You may also be repeatedly interrupted while performing your inspection duties. For example, you may be requested to move your car from the assigned parking space at the plant.

If there is a history of tactics to undermine your regulatory responsibilities, these are subject to inquiry or investigation, and withdrawal of inspection services from the establishment may result. Such cases require accurate and complete documentation. Any action, no matter how minor, designed to prevent you from carrying out your official duties must be reported on FSIS Form 4735-4.

Supervisors respond to all incidents, no matter how minor. Records of all reported incidents are maintained within the appropriate district office. The Internal Control Staff (ICS), at headquarters, tracks the case and conducts assessments as necessary.

1. Q: *What is intimidation or interference?*

A. Intimidation is any act or behavior to wield power or influence your decision. Such actions leave you feeling vulnerable or in fear of some dire consequence. Acts of intimidation are usually made to change your course of action by making you fear some consequence. Report all incidents of intimidation on or off duty, and any incidents directed at family members.

2. Q. *Are threats of reporting you to your supervisor or congressional representative, considered intimidation?*

A. Not necessarily. Such appeals to higher authority are normal when done through the appropriate channels. You should give reasonable explanations for your actions. If your explanations are unsatisfactory, the establishment official may appeal your decision. Supervisors respond to appeals. When you are confronted and the action is to prevent you from performing your regulatory duties, then you are being intimidated.

3. Q. *What should I do if a plant official starts arguing with me about how I am performing my official duties?*

A. You are responsible for performing your official duties in a safe and professional manner. You must evaluate the situation and use appropriate action. When possible, avoid confrontations by explaining pending actions that might cause disruption to plant operations. Give reasons for your actions. Arrange to discuss the situation away from distractions, such as noisy equipment. Record the names of witnesses present. If emotions are high, refrain from confronting the individual until he or she calms down. You may also need to calm down before attempting to discuss the incident. When you can no longer perform your official duties, give notice that you are leaving the premises to report the incident to your supervisor.

4. Q. *What should be done if the plant owner complains to my supervisor without discussing problems with me?*

A. This situation cannot be avoided. Your supervisor must listen to the plant owner and determine why the plant owner has not resolved the problems with you. The supervisor may either (1) encourage the plant owner, operator or supervisor to work out the problems with you first before getting involved, or (2) immediately become involved by bringing you and the plant official(s) together to work out the problems. The supervisor

may suggest ways to resolve the situation.

**5. Q.** *Do I have to tolerate cursing or suggestive language or behavior when addressed by plant employees?*

**A.** No. You are a USDA regulatory official conducting official business. You should express your concerns about inappropriate language or behavior to plant officials. If such actions continue, report the incident to your supervisor using FSIS Form 4735-4.

**6. Q.** *What should I do if an article appears in my local newspaper that questions the way I do my job and its effect on the well being of the community by eventually closing the plant?*

**A.** As a public official, you are vulnerable to such tactics. Immediately report the incident to your supervisor.

**7. Q.** *Is it interference when the plant official asks me not to park in the area reserved for the USDA inspector?*

**A.** Not necessarily. However, keep alert for repeated incidents. If a pattern occurs, there may be reason to suspect the plant is attempting to distract you from your official duties. If you suspect wrongdoing, discuss your objections with the plant official in an attempt to resolve the situation. Inform the plant of its obligation to provide unimpeded access to the facility and that failure to do so may result in regulatory action.

**8. Q.** *What should I do if my automobile tires are slashed while parked at the official establishment?*

**A.** Report the incident and any suspicions to the plant official, law enforcement authorities, and your supervisor. Document witnesses and events that may have contributed to the incident on FSIS Form 4735-4.

**9. Q.** *I have heard that charges of sexual harassment are made to discredit inspectors. Is this true and what can I do to protect myself?*

**A.** Yes, this situation has occurred. Each case is based on the unique circumstances involved. Always conduct yourself in a

professional manner that is above reproach. Conduct yourself as a professional and remain alert for events that seem out of the ordinary. What seems like an innocent encounter may be intentionally designed to compromise your integrity. **EXAMPLE:** Joking or touching may be used as a tool to develop charges against you. Be especially wary of requests for personal favors or other actions to distract you from your official duties. Friendliness is normal, however, remember your responsibility to conduct official business in a professional and ethical manner that is above reproach.

10. *Q. Is it an assault when a plant employee waves a knife at me?*

A. Yes. Do not debate with yourself whether you feel in danger. Consider any act that threatens physical harm, no matter how incidental, an act of assault. It is better to be safe than to second guess the outcome of such an event. Remove yourself from the area and report the incident to your supervisor. Follow the supervisor's instructions.

11. *Q. How do I know that someone is looking at the case and not letting it get forgotten in all the confusion.*

A. Your immediate supervisor and the district manager are both responsible for ensuring that the case is addressed and resolved. If you have not been informed of the status, please ask your supervisor. In addition, you send a "notification" copy of the Report directly to the district manager and the entire case is tracked by ICS. ICS uses an incident tracking system to Assess whether cases are addressed and resolved promptly.

### ATTACHMENT 3

#### REGIONAL OFFICES OF THE INSPECTOR GENERAL

Great Plains Region  
Missouri,  
Special Agent in Charge  
Dakota,  
9435 Holmes Road, Room 210  
Kansas City, MO 64131

Colorado, Iowa, Kansas,  
Montana, North Dakota, South  
Utah, Nebraska, and Wyoming



**Mailing Address:**  
PO Box 293  
Kansas City, MO 64141  
(816) 926-7606

**Midwest Region**  
Minnesota,  
Special Agent in Charge  
111 N. Canal Street, Suite 1130  
Chicago, IL 60606  
(312) 353-1358

Illinois, Indiana, Michigan,  
Ohio, and Wisconsin

**North Atlantic Region**  
Massachusetts,  
Special Agent in Charge  
New York,  
26 Federal Plaza, Room 1409  
Vermont, and New York, NY 10278  
(212) 264-8400

Connecticut, Maine,  
New Hampshire, New Jersey,  
Puerto Rico, Rhode Island,  
Virgin Islands

**Northeast Region**  
Columbia,  
Special Agent in Charge  
Virginia,  
4700 Riverdale Road, Suite 5D06  
Mail Unit 151  
Riverdale, MD 20737  
(301) 734-8850

Delaware, District of  
Maryland, Pennsylvania,  
and West Virginia

**Southeast Region**  
Kentucky,  
Special Agent in Charge  
South  
401 Peachtree Street, NW, Room 2329  
Atlanta, GA 30365  
(404) 730-3170

Alabama, Florida, Georgia,  
Mississippi, North Carolina,  
Carolina, and Tennessee

**Southwest Region**  
Oklahoma, and  
Special Agent in Charge  
101 South Main  
Temple, TX 76501  
(254) 298-1351

Arkansas, Louisiana,  
Texas

**Western Region**

**Hawai i,**

**Special Agent in Charge**

**Oregon,**

**600 Harrison Street, Suite #225**

**Territories of San Francisco, CA 94107**

**and Washington**

**(415) 744-2887**

**Alaska, Arizona, California,**

**Idaho, New Mexico, Nevada,**

**Territory of Guam, Trust**

**the Pacific,**